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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,945	11/14/2003	David Vincent Henry	29205.00	4799
22465	7590	07/27/2004		
PITTS AND BRITTIAN P C P O BOX 51295 KNOXVILLE, TN 37950-1295			EXAMINER BLAU, STEPHEN LUTHER	
			ART UNIT 3711	PAPER NUMBER

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,945

Applicant(s)

HENRY, DAVID VINCENT

Examiner

Stephen L. Blau

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-15 and 18 is/are allowed.
- 6) ☐ Claim(s) 1, 6, 8-12, 16, 17, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/14/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The reference of U.S. patent number 6,332,457 is recorded as the applicant being Klein on Information Disclosure Statement of 14 November 2003 which is incorrect. The applicant of U.S. patent number 6,332,457 is Imoehl. It is believed that this patent number is incorrect since the subject matter is not consistent with the subject matter of this case.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the slope of the sole being approximately 7 degrees in claim 12 must be shown or the feature(s) canceled from the claim(s). There are many slopes on the sole and it is uncertain which slope is being referred to. No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the

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appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9-10, 16-17, and 19-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 9-10, 16-17 and 19, the word "conventional" is indefinite. What is conventional today may not be what is conventional tomorrow.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 6, and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagy in view of Griffen, Frye, Iles and Chun-Sheng.

Nagy discloses a striking face defining a planar surface (Figs. 4, 6-7) and defining an orthogonal bisector (Figs. 5, and 7-8), a trailing edge defining an arcuate configuration (Fig. 7), a sole (Fig. 8), a top surface (Fig. 7), a head apart from the hosel being substantially symmetrical about an orthogonal bisector of a striking face (Figs. 5 and 7-8), a recess about the size of a ball on a bottom of a sole which appears spherical (Figs. 3 and 8), a top surface defining an opening to reveal of a recess (Fig. 7), a concentration of in the center of a putter head in the form of the width (Fig. 8) and height (Fig. 5) being maximized at the center of the head, and a sole defines a slope of approximately 7 degrees in the form of the leading edge of the sole curves from a zero slope to a slop about 20 degree near the toe and heel (Fig. 5) whereby a sole is able to be relatively level at a natural extension of a forearm when a putter head is disposed between the feet of a golfer when retrieving a golf ball due to a wrist being angled (Figs. 4 and 6).

Nagy lacks a head being substantially symmetrical about an orthogonal bisector of a striking face, a spherical recess between a sole and a striking face, a sole defining an opening adapted to be slightly smaller than a diameter of a ball, a top surface opening being provided for engaging a ball when received within a recess to push a ball out of the recess, a retainer for retaining a golf ball within a recess, a retainer including at least one resilient tab defined in a sole approximate a sole opening to enlarge a sole opening to receive a golf ball, whereby at least one resilient tab returns to an initial unflexed state upon receipt of a ball, a ball alignment indicia disposed on a top surface, an alignment indicia including at least a portion adapted to appear distorted with a golfer is not positioned directly above a head and straight when the golfer is positioned directly above a head, a head able to be placed in a conventional cup, and a curved transition between a sole and a trailing edge.

Griffen discloses a head being substantially symmetrical about an orthogonal bisector of a striking face in order for the shaft to limit twisting and to allow the shaft to provide greater feedback to a player [0052]. In addition, Griffen discloses a ball alignment indicia disposed on a top surface (Fig. 10, Ref. Nos. 22) including at least a portion adapted to appear distorted with a golfer is not positioned directly above a head in the form of parallax error when viewing the alignment indicia from an angle and straight when the golfer is positioned directly above a head in the form there being no parallax error. In view of the publication of Griffen it would have been obvious to modify the head of Griffen to have a head being substantially symmetrical about an orthogonal bisector of a striking face with the shaft extending through the center of the putter head

in order for the shaft to limit twisting and to allow the shaft to provide greater feedback to a player. In view of the publication of Griffen it would have been obvious to modify the head of Griffen to have a C shaped ball alignment indicia disposed on a top surface in order to assist a golfer in accuracy when putting. As such the alignment indicia including at least a portion would be adapted to appear distorted when a golfer is not positioned directly above a head due to parallax error and straight when the golfer is positioned directly above a head.

Frye discloses a spherical recess (Col. 3, Lns. 57-65, Figs. 1 and 3) between a sole and a striking face, head able to be placed in a conventional cup (Fig. 4), and a curved transition between a sole and a back of a putter (Figs. 1 and 3) in order to retrieve and retain a golf ball (Abstract). In view of the patent of Frye it would have been obvious to modify the putter of Nagy to have a spherical recess between a sole and a striking face and a head able to be placed in a conventional cub in order to retrieve and retain a golf ball and in order to retrieve a golf ball from a golf cup. As such a top surface opening would provide for engaging a ball when received within a recess to push a ball out of the recess. In addition, in view of the patent of Frye it would have been obvious to modify the putter of Nagy to have a curved transition between a sole and a trailing edge in order to minimize the contact between the head and ground when putting a ball.

Iles discloses a sole defining an opening in the form of a ring (Ref. No. 4) adapted to be slightly smaller than a diameter of a ball to enlarge a sole opening to receive a golf ball whereby the ring returns to an initial unflexed state upon receipt of a

ball in order to retain a golf ball once it passes through (Page 1, Lns. 43 through 63). In view of the patent of Iles it would have been obvious to modify the putter of Nagy to have a sole defining an opening adapted to be slightly smaller than a diameter of a ball to enlarge a sole opening to receive a golf ball whereby the ring returns to an initial unflexed state upon receipt of a ball in order to retain a golf ball once it passes through.

Chun-Sheng discloses a retainer for a ball retriever including either a ring or resilient tabs in the form of juts ([0023], Fig. 7). In view of the publication of Chun-Sheng it would have been obvious to modify the putter head of Nagy to have a retainer including at least one resilient tab defined in a sole approximate a sole opening to enlarge a sole opening to receive a golf ball, whereby at least one resilient tab returns to an initial unflexed state upon receipt of a ball in order to minimize the amount of material needed for the retainer structure compared to using a ring.

Allowable Subject Matter

7. Claims 13-15 and 18 are allowed. None of the prior art discloses or renders as obvious a plurality of tabs between an arcuate recess and a sole opening, an arcuate recess being concentrically disposed with respect to a sole opening, and at least one notch being defined between an arcuate recess and a sole opening of define a plurality of tabs in addition to the other elements of structure claimed.

8. Claims 2-5, and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. With respect to claims 2-3 and 13-18, none of the prior art discloses or renders as obvious a plurality of tabs between an arcuate recess and a sole opening, an arcuate recess being concentrically disposed with respect to a sole opening, and at least one notch being defined between an arcuate recess and a sole opening of define a plurality of tabs in addition to the other elements of structure claimed. With respect to claims 4-5, none of the prior art discloses or renders as obvious a shaft retriever for retrieving an elongated lying on a horizontal surface in addition to the other elements of structure claimed. With respect to claim 7, none of the prior art discloses or renders as obvious a C-shaped indicia extending around a ball retriever and retainer top surface opening in addition to the other elements of structure claimed.

9. Claims 16-17 and 19-20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. With respect to claims 19-20, none of the prior art discloses or renders as obvious a plurality of tabs between an arcuate recess and a sole opening, an arcuate recess being concentrically disposed with respect to a sole opening, and at least one notch being defined between an arcuate recess and a sole opening of define a plurality of tabs in addition to the other elements of structure claimed.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Blau whose telephone number is (703) 308-2712. The examiner is available Monday through Friday from 8 a.m. to 4:30 p.m.. If the examiner is unavailable you can contact his supervisor Greg Vidovich whose telephone number is (703) 308-1513. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858. (TC 3700 Official Fax 703-872-9306)

slb/ 25 July 2004


STEPHEN BLAU
PRIMARY EXAMINER